## Franchise Tax Board

# **SUMMARY ANALYSIS OF AMENDED BILL**

Author: Figueroa	Analyst:	LuAnna Hass	Bill 1	Number: SB 1955
Related Bills: See Prior Analysis	Telephone	e: <u>845-7478</u>	Amended Date:	August 27, 2002
	Attorney:	Patrick Kusia	C Spon	sor:
SUBJECT: FTB Notify CTEC Of Tax Preparers Not Properly Registered				
DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended				
AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.				
AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended <u>August 8, 2002</u> .				
X FURTHER AMENDMENTS NECESSARY.				
DEPARTMENT POSITION CHANGED TO				
X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED <u>August 8, 2002,</u> STILL APPLIES.				
OTHER - See comments below.				
SUMMARY  This bill would allow the Franchise Tax Board (FTB) to notify the California Tax Education Council (CTEC) when it encounters Tax Preparers who are not properly registered.  SUMMARY OF AMENDMENT				
The August 27, 2002, amendments would make changes to various definitions for the purpose of regulating public accountants. This amendment does not affect the department. For convenience, the department's remaining concerns are provided below. The remainder of the department's analysis of the bill as amended August 8, 2002, still applies.				
POSITION				
Pending.				
IMPLEMENTATION CONSIDERATIONS				
FTB administers the income tax laws; its expertise is not in the enforcement of the business and professions requirements applicable to Tax Preparers or any other tax professional. In addition, this bill would allow the Attorney General, a district attorney, or a city attorney to levy a fine "per violation." The author may wish to define this term to clarify what constitutes a violation (e.g., per return, per preparer).				
Board Position:		NP	Legislative Director	Date
S NA O OUA		NAR PENDING	Brian Putler	9/9/02

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### ARGUMENTS/POLICY CONCERNS

The primary purpose of the Internal Revenue Service (IRS) and FTB is to administer the tax laws. Both federal and state law provide for separation between tax administration and the regulation of all tax professionals. At the federal level, the Director of Practice appointed by the Secretary of the Treasury oversees the practice of representatives before the IRS and is responsible for enforcing the laws that regulate these individuals. Similarly, the Department of Consumer Affairs is the established entity that regulates the practices of the various professionals at the state level. CTEC has the authority to establish guidelines for Tax Preparers, whereas FTB's relationship with Tax Preparers is defined by its role to ensure that preparers determine the correct amount of tax for their taxpayer clients. Therefore, this bill would be a substantial policy change by statutorily permitting an agency responsible for tax administration, FTB, to report noncompliance with laws pertaining to the regulation of Tax Preparers. It is unclear what impact this bill would have on the positive relationship that currently exists between Tax Preparers and the department.

### **Additional Comments**

The department's fraud staff has an existing Memorandum of Understanding (MOU) with CTEC. Among other things, the MOU provides that when visiting Tax Preparers fraud staff would provide information about CTEC to Tax Preparers. However, due to recent budget and resource constraints, visits to Tax Preparers by the department's fraud staff has been significantly reduced.

As stated above under Policy Considerations, this bill would expand FTB's authority beyond its current authority to administer taxes. However, the bill has not been referred to a tax policy committee.

### LEGISLATIVE STAFF CONTACT

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